Doc Code: AP.PRE.REQ

MAY 27 2008

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
RYM-36-1920

Application Number	Filed
10/550,203	September 21, 2005

First Named Inventor
TATESON

Art Unit	Examiner
2163	S. Hwa

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
     Note: No more than five (5) pages may be provided.

I am the

☐ Applicant/Inventor

☐ Assignee of record of the entire interest. See 37 C.F.R. § 3.71. Statement under 37 C.F.R. § 3.73(b) is enclosed. (Form PTO/SB/96)

☒ Attorney or agent of record   41,426
                        (Reg. No.)

☐ Attorney or agent acting under 37CFR 1.34.
Registration number if acting under 37 C.F.R. § 1,34 _____

_____
Signature

Raymond Y. Mah
_____
Typed or printed name

703-816-4044
_____
Requester's telephone number

May 27, 2008
_____
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.*

☒ *Total of   1   form/s are submitted.

STATEMENT OF ARGUMENTS FOR PRE-APPEAL REVIEW

The following listing of clear errors is responsive to the Final Rejection mailed December 11, 2007 and Advisory Action mailed April 7, 2008.

The Information Disclosure Statements filed September 12, 2007 and March 11, 2008 should be fully considered.

The Advisory Action states "The Applicants' Information Disclosure Statements, filed March 11, 2008 is not entered." Non-entry of the March 11, 2008 IDS is a clear error. This IDS satisfies all U.S. rules for consideration. In particular, the IDS was filed with the fee under 37 C.F.R. §1.17(i) and the appropriate certification under 37 C.F.R. §1.97(e)(i). With respect to the September 12, 2007 IDS, at least one of the "Other Documents" has not been initialed on the Form PTO/SB/08a, despite the fact that Section 2 (page 2) of the December 11, 2007 Office Action indicates that "the information disclosure statement filed on September 12, 2007 is in compliance with the provisions of 37 CFR 1.97, 1.98 and MPEP §609."

The March 11, 2008 Amendment/Response should be entered.

The Advisory Action indicated that "For purposes of appeal, the proposed amendment(s): a) will not be entered." The non-entry of the proposed amendments of the Amendment/Response dated March 11, 2008 is a clear error. This Amendment merely canceled claims 27-29. Accordingly, there is no justification for denying entry.

The Final Rejection and Advisory Action fail to establish that claims 1-23 and 25-35 are "obvious" over Kramer et al. (U.S. '574, hereinafter "Kramer") in view of Wang et al. (U.S. '147, hereinafter "Wang").

Dependent Claims 5 and 19:

Dependent claim 5 requires "wherein a provision is made for users to input both *positive and negative* reward values." Claim 19 requires "wherein the reward accrued by attribute data items due to association with non-selected display items is *negative* where the selected display item reward is *positive*, and *positive* where the selected display item reward is *negative* (emphasis added)." The combination of Kramer and Wang fails to teach or suggest these limitations. For example, with respect to claim 5, the Advisory Action alleges that col. 11, lines 1-10 and col. 12, lines 28-34 of Kramer discloses "provisions made for users to input both positive and negative reward values." Col. 11, lines 1-10 of Kramer discloses the following:

> The characteristic values for an object will be represented as a vector of real numbers where each value measures the degree to which the corresponding characteristic applies to the consumer or product. For example the value of the conservative attribute may have a value between 0 and 1 where 1 represents complete conservatism and 0

represents complete radicalism. The vector of characteristic values
for a consumer represents a model of his interests and the vector of
characteristic values for a product represents a model of the appeal of
the product.

Col. 12, lines 28-34 of Kramer disclose the following:

c) Model(s) Data. This is data relating to the current state of each
active TIC model. This includes the current characteristic values,
summary data, deltas (i.e. changes), and whatever additional values
are required by the model to continue the update process and for
model-based selection of content.

In col. 11, lines 1-10, Kramer indicates that a value of a corresponding characteristic may
have a value between 0 and 1. In col. 12, lines 28-34, Kramer merely defines model(s) data. There
is no teaching or suggestion whatsoever in these portions of Kramer of both positive and negative
reward values, let alone users inputting both positive and negative reward values.

Col. 28, lines 59-65 (specifically identified on page 24 of the Final Rejection) of Kramer also
fails to disclose "provision is made for users to input positive and negative reward values," as
required by claim 5 as well as the limitations of dependent claim 19 in which a reward accrued by
attribute data items associated with non-selected display items is negative where the selected data
item reward is positive, and *vice versa* as required by claim 19. Col. 28, lines 59-65 of Kramer states
the following:

When the aggregated attributes from the attribute vector 808 are
involved, the aggregated value is a weighted and normalized sum of a
number of attribute values. FIGS. 13*a* and 13*b* depicts tables
showing conditional probability metadata for the following
transactions:

A weighted and normalized sum as described in this portion of Kramer clearly fails to teach
or suggest a reward accrued by attribute data items associated with non-selected display items being
negative where the selected data item reward is positive, and *vice versa*. The Advisory Action
indicates that the above-portions of Kramer describe the characteristic values for an object being
represented as a vector of real numbers. Kramer does indeed disclose characteristic values of an
object being represented as a vector of real numbers. However, representing characteristic values of
an object as a vector of real numbers has nothing to do with allowing a user to make positive or
negative assessments. The cited part of Kramer merely discusses how values are represented, not
how a user exerts influence over those numbers. As an example, representing characteristic values as
a vector or real numbers as in Kramer does not disclose or suggest, for example, a possibility in

2

which a user indicates a "I hate it" selection to directly record negative reward values for that selection. Again, Kramer's disclosure of storing a vector of real numbers to represent characteristic values has nothing to do with a user providing, for example, negative reward values.

Dependent Claims 16 and 33-35:

Dependent claim 33 requires, "wherein the sum of all score values remains the same even after the score values are amended in response to the user inputs." Claims 34-35 require nearly identical limitations. Claim 16 requires "where the changes to attribute data item score values are so arranged that the sum of score values across all attributed data items is zero." The Advisory Action alleges that col. 24, lines 25-30 (also Figs. 13A-13B) of Kramer discloses the above-noted limitations of claims 33-35. Page 23 of the Final Rejection alleges that col. 24, lines 17-24 of Kramer discloses the above-noted limitations of claim 16. Col. 24, lines 17-30 of Kramer states the following:

> Accordingly, in one embodiment the illumination also contains a relevancy vector 1040, to indicate which elements of the target vector 1038 are important. If an element of the relevancy vector 1040 is set to zero, the attribute represented by the element is of no interest in the matching; if set to 1, it is completely of interest. A relevancy vector value may vary between 0 and 1, indicating that the attribute is of any arbitrary level of interest.
>
> The final match score is computed by the Metric Matching 1018 as a combination (e.g. weighted sum or product) of the priority resulting from the Boolean query, and the distance metric from the target vector 1038 to the consumers attribute vector 808.

This portion of Kramer uses the word "sum." However, this is where the similarity between this portion of Kramer and claims 16 and 33-35 ends. The sum disclosed by Kramer is to compute a final match score. There is no teaching or suggestion that this sum is a sum of all score values of attribute data items remaining the same even after the score values are amended in response to user inputs (claims 33-35) or that this sum represents changes in attribute data item score values so that the sum of score values across all attribute data items is zero (claim 16). Through these claimed features, the sum of the scores in a user profile does not change during a session -- so if the sum of the score values is 1000 and that user logs on, it will still sum to 1000 even after user inputs are made and scores are amended in accordance with those user inputs (e.g., the sum will still be 1000 at log-off). As score values for some attribute data items increase, the score values of other attribute data items will decrease, so that the sum of all of the score values will remain the same value or the sum of the score value changes will sum to zero. Again, Kramer's calculation of a match score utilizing a weighted sum involves a completely different calculation and is for a completely different purpose

3

than the limitations required by claims 16 and 33-35. The cited Kramer passage describes what actually happens when a match score is calculated (including factoring a weighted sum), while the limitations of claims 16 and 33-35 indicate that the sum remains the same even if certain score values are changed.

Independent Claims 1, 9 and 26:

As noted above, independent claims 1, 9 and 26 were rejected under 35 U.S.C. §103 over Kramer in view of Wang. These claims were also rejected under 35 U.S.C. §103 over Kramer in view of Edlund et al. (U.S. '388, hereinafter "Edlund").

In order to establish a *prima facie* case of obviousness, all the claim limitations must be taught or suggested by the prior art. The combinations of Kramer in view of Wang and Kramer in view of Edlund each fails to teach or suggest all of the limitations required by independent claims 1, 9 and 26. For example, each combination fails to teach or suggest "receiving user inputs made during a browsing session, and amending score values for attribute data items associated with the display items as the browsing session continues," as required by independent claim 1 and its dependents. Similar comments apply to independent claims 9 and 26.

Pages 7 and 36 of the Final Rejection admits that "Kramer does not explicitly teach the claimed limitation 'means for receiving user inputs made during a browsing session', 'means for amending the score values in response to the user inputs as said browsing session continues' and 'output means for displaying an output identifying the selected further display item or items during said browsing session.'" Neither Edlund nor Wang resolves this admitted deficiency of Kramer. For example, Edlund explicitly discloses using data from a previous session to guide a current session. In particular, col. 3, line 52 to col. 4, line 21 of Edlund discloses a situation in which the user Z conducts a session, and then "User Y *later* uses the system *independently* using the search features of the current invention and enters the same query using the same search engine features as User Z (emphasis added)." Like Kramer, Edlund thus discloses using data from a previous session to guide a current session. Col. 22, lines 13-15 stating "... said information identifying the current session from said session manager and updates said query database based on this data, *for use with subsequent sessions*," confirms that Edlund fails to teach or suggest (and in fact teaches away from) amending score values in response to user inputs <u>as the same browsing session continues</u>. See also col. 22, lines 52-55 of Edlund.

Like Edlund, Wang also fails to resolve the admitted deficiencies of Kramer. Instead, Wang discloses an internet browsing process where a user explicitly requests pages (as in normal web browsing), but those pages are represented as derived content rather than content in its original form

4

("primary content"). Wang discloses how derived content is built from primary content. This derivation essentially relies on guidance indicating what changes need to be made (for example, the user might provide guidance that indicated a need for audio, rather than text-based browsing). Accordingly, if a user requested a specific page via a URL, Wang's system would seek the guidance created by that user that he/she requests an audio link rather than a text display, and then turn the primary content into an audio presentation (i.e., the derived content).

There is no teaching or suggestion in Wang of amending score values for attribute data items (e.g., key words) associated with display items as the browsing session continues. For example, no learning (within the same session or across sessions) takes place and no dynamic user profiles are created and progressively amended over the course of the same session.
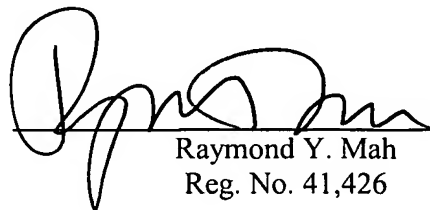
Moreover, Wang's scoring process involves deciding which two (or more) pieces of additional content are suitable to be used as part of the derived content. This scoring process calculates the distance apart in a tree-based structure, and selects the additional piece of content based on which is "closer" in that tree to the ideal. This scoring process to select the appropriate derived content fails to disclose amending the score values of attribute data items associated with display items in response to user inputs as the browsing session continues as required by independent claims 1, 9 and 26. Wang's scoring is accomplished based on static guidance and model creation, rather than through the use of a dynamic, interactively updated profile of score values for attribute data items associated with display items.

Applicant therefore respectfully requests that the pre-appeal panel find that the application is allowable on the existing claims.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____
Raymond Y. Mah
Reg. No. 41,426

RYM:dmw
901 North Glebe Road, 11th Floor
Arlington, VA 22203
Telephone: (703) 816-4044
Facsimile: (703) 816-4100

5